

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Peter Hoy (S7)	Team: Team # 5	CCRB Case #: 201005747	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 04/24/2010 1:00 AM	Location of Incident: 307 West 117th Street	Precinct: 28	18 Mo. SOL 10/24/2011	EO SOL 10/24/2011	
Date/Time CV Reported Wed, 04/28/2010 12:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/30/2010 4:23 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Robert Abramson	02187	905644	PBMN AC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andrew Burrafato	21393	932384	PBMN AC
2. POM Konstantin Panopoulos	31172	927318	Bronx Vice

Officer(s)	Allegation	Investigator Recommendation
A.SGT Robert Abramson	Abuse: Sgt. Robert Abramson supervised the stop of the car in which § 87(2)(b) was an occupant.	
B.SGT Robert Abramson	Abuse: Sgt. Robert Abramson frisked § 87(2)(b)	
C.SGT Robert Abramson	Abuse: Sgt. Robert Abramson searched the car in which § 87(2)(b) was an occupant.	
D.SGT Robert Abramson	Abuse: Sgt. Robert Abramson threatened to arrest § 87(2)(b)	

Case Summary

On April 28, 2010, § 87(2)(b) filed a complaint with the Internal Affairs Bureau by phone, generating IAB log number 10-21200. On April 30, 2010, the Civilian Complaint Review Board received the complaint. On June 16, 2010, CCRB case number § 87(2)(b) was spun-off from this case and referred to IAB regarding allegations made by § 87(2)(b) that are out of the jurisdiction of the CCRB.

On April 24, 2010 at approximately 1:00 a.m., § 87(2)(b) was stopped while driving near West 117th Street and St. Nicholas Avenue in Manhattan. The following allegations resulted:

- **Allegation A - Abuse of Authority: Sgt. Robert Abramson supervised the stop of the car in which § 87(2)(b) was an occupant.** § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation B - Abuse of Authority: Sgt. Robert Abramson frisked § 87(2)(b)**
§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation C - Abuse of Authority: Sgt. Robert Abramson searched the car in which § 87(2)(b) was an occupant.** § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation D - Abuse of Authority: Sgt. Robert Abramson threatened to arrest § 87(2)(b)** § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

CCRB Testimony

On May 4, 2010, § 87(2)(b) provided a detailed phone statement (encl. 5); on May 11, 2010, § 87(2)(b) was interviewed at the CCRB (encl. 6A-D); and on December 21, 2010, § 87(2)(b) provided an additional details about the incident by phone. § 87(2)(g)
§ 87(2)(b) During his initial phone statement and again during his CCRB interview, § 87(2)(b) was offered mediation, but refused.

On April 24, 2010, at what § 87(2)(b) estimated was 12:30 a.m., but the investigation determined to be 1:00 a.m., § 87(2)(b) was driving his § 87(2)(b)
§ 87(2)(b), near the intersection of West 117th Street and St.

Nicholas Avenue in Manhattan. At the time, he had body damage on the right rear bumper of his vehicle.

§ 87(2)(b) was pulled over by an unmarked car. Three officers approached his vehicle. The officer that approached the driver's side was identified by the investigation as PO Konstantin Panopoulos. PO Panopoulos was assigned to Patrol Borough Manhattan North Anti-Crime on the date of the incident, but has since been transferred to Bronx Vice. § 87(2)(b) described him as white male in his mid-30s that stood five feet and ten inches and had a slim build and dark hair. The officer that approached the front passenger's side was identified by the investigation as Sgt. Robert Abramson from Patrol Borough Manhattan North Anti-Crime. § 87(2)(b) described him as a white male in his 30s that stood about five feet and ten inches and had an average build. The officer that stayed towards the rear of the passenger's side was identified by the investigation as PO Andrew Burrafato from Patrol Borough Manhattan North Anti-Crime. § 87(2)(b) described him as a white male that stood about five feet and ten inches and had an average build.

Sgt. Abramson and PO Burrafato opened the front and back passenger's side doors. § 87(2)(b) told the officers to close his door. Sgt. Abramson instructed § 87(2)(b) to exit the vehicle three to four times, but each time, § 87(2)(b) verbally refused. He did this because the officers had not shown him identification and were not wearing uniforms. Sgt. Abramson said, "Get out of the truck or I'll put you out," at which point § 87(2)(b) agreed to exit. PO Panopolous escorted § 87(2)(b) from the vehicle and walked him to the rear, where § 87(2)(b) was frisked by Sgt. Abramson, including his neck, arms, torso, legs, waist and groin area. This prompted § 87(2)(b) to say, "What are you gay?" Sgt. Abramson then squeezed § 87(2)(b)'s groin area again. § 87(2)(b) was offended by this, but stated that it was not painful. § 87(2)(b) asked something to the effect of, "Who are you? Why are you searching me?" Sgt. Abramson responded, "I'm 'Serg,' I do what I want," and pulled out a badge showing the number 2187.

One of the other officers then asked for § 87(2)(b)'s identification, which he provided. Sgt. Abramson asked § 87(2)(b) if he had been drinking and threatened to call a "breathalyzer van" to the scene. § 87(2)(b) said he had not had a drink in fourteen years. Sgt. Abramson then asked § 87(2)(b) what he was doing in Harlem. § 87(2)(b) argued and asked what was going on. Sgt. Abramson said, "You're going to apologize to me by the end of this. I'm going to tell you what's going on after I search your vehicle."

§ 87(2)(b) told the officers they did not have the right to search his vehicle. From his vantage point at the back of the car, § 87(2)(b) could not see the officers actually searching his vehicle, but believed it was searched because when he returned to his vehicle, the front and back seats, the floor mats and the glove box appeared disturbed. Items had been removed from seat pockets, the floor mats had been lifted and the child seats and been moved.

Sgt. Abramson then told § 87(2)(b) there had been a nearby shooting on 131st Street. § 87(2)(b) asked what that had to do with him. Sgt. Abramson said, "You want me to take you in?" § 87(2)(b) responded, "You do what you got to do. I don't see the point of this conversation. If you're going to arrest me, do what you have to do." Sgt. Abramson told § 87(2)(b) not to raise his voice. § 87(2)(b) responded by saying, "I speak loud, I speak plain, I speak so people can hear me. I don't know what your problem is, this is the way I speak." One of the officers then told § 87(2)(b) to return to his vehicle and the officers left.

NYPD Statements:

Subject Officer: SGT. ROBERT ABRAMSON

- Born § 87(2)(b), Sgt. Abramson is a white male, stands five feet and seven inches,

weighs 170 pounds, is bald and has brown eyes.

- *Sgt. Abramson worked from 5:26 p.m. on April 23, to 2:10 a.m. on April 24, 2010, wearing plainclothes and assigned to anticrime in an unmarked vehicle with PO Panopoulos and PO Burrafato.*

Memo Book

Sgt. Abramson made the following memo book entries related to this incident (encl. 8A-D): at 1:00 a.m., car stopped at West 117th Street between St. Nicholas to 8th Avenue: § 87(2)(b) with New York State plates and significant body damage to the right rear of vehicle and tinted windows; stopped because of earlier shooting at 132nd Street and Park Avenue and an advisory to be on look out for a champagne colored SUV with tinted windows and significant right rear body damage; sole occupant of vehicle was § 87(2)(b) born § 87(2)(b), who resides at § 87(2)(b) in Brooklyn; § 87(2)(b) was immediately verbally abusive, cursing and refusing to show his hands; Sgt. Abramson opened the passenger side door to turn on interior light for visibility; § 87(2)(b) yelled, “You don’t know who I know. Why the fuck did you pull me over? I want your name and badge number;” Sgt. Abramson immediately complied, remained calm, frisked § 87(2)(b) at rear of the vehicle and searched the lungable area in vehicle; at conclusion, explained reason for stop; § 87(2)(b) stated, “I don’t give a shit. It’s not my problem. I know § 87(2)(b);” Sgt. Abramson told § 87(2)(b) to feel free to call § 87(2)(b) and that he would be happy to speak to him; § 87(2)(b) said § 87(2)(b); SPRINT number for the male shot (10-34) is § 87(2)(b) § 87(2)(b) was over six feet, over 200 pounds and had a large scar on his face; § 87(2)(b) also stated, “I’ve been locked up hundreds of times;” Sgt. Abramson prepared a Stop, Question and Frisk Report; negative results regarding criminal possession of a weapon; refusal to comply, lower voice, show hands, turn on interior light, turn off ignition, etc.; Sgt. Abramson resumed patrol at 1:05 a.m.

Stop, Question and Frisk Report

The Stop, Question and Frisk Report § 87(2)(b) (encl. 9A-B), prepared by Sgt. Abramson, indicates that on April 24, 2011, at 1:00 a.m., § 87(2)(b) s car was stopped at the intersection of West 117th Street and St. Nicholas Avenue in Manhattan.

The report indicates the following about the car stop: Sgt. Abramson observed § 87(2)(b) for one minute before stopping him and the car stop took five minutes; the crime suspected was criminal possession of a weapon; § 87(2)(b) s vehicle matched the description of a car they were on the lookout for in relation to an earlier shooting; the circumstances leading to the stop were that § 87(2)(b) matched a description, the rear body damage to § 87(2)(b) s car matched the description of the vehicle they were looking for, § 87(2)(b) made furtive movements; additional factors leading to the stop were that the area had a high incidence of the reported offense, the time and day of week corresponded to criminal activity, the scene had a close proximity to the suspected offense and there was damage to the right rear side of § 87(2)(b) s vehicle.

The report indicates the following about the frisk of § 87(2)(b) § 87(2)(b) was suspected of a violent crime, § 87(2)(b) made furtive movements and § 87(2)(b) refused to comply with the officers’ directions, specifically, refusing to turn on the interior light of his vehicle and telling the officers, “Don’t want to hear it.”

CCRB Statement

On October 5, 2010, Sgt. Abramson was interviewed at the CCRB (encl. 10A-C). His statement has been summarized below.

At the time and place of occurrence, Sgt. Abramson was in the front passenger seat, with PO Panopoulos driving and PO Burrafato in the rear seat. Earlier in the tour, the officers had received a radio transmission that a person had been shot at 132nd Street and Park Avenue. The description of the vehicle fleeing the scene was an American-model, champagne-colored SUV with tinted windows and significant rear body damage with New York State license plates. When Sgt. Abramson observed § 87(2)(b) vehicle, he noticed that it matched this description, including the right rear body damage. Sgt. Abramson pointed out the vehicle to the other officers and instructed PO Panopoulos to pull § 87(2)(b) over.

All three officers approached § 87(2)(b)'s vehicle, with Sgt. Abramson approaching the passenger's side and PO Panopoulos approaching the front driver's side and PO Burrafato providing backup. § 87(2)(b) immediately began yelling at PO Panopoulos. Sgt. Abramson heard PO Panopoulos ask § 87(2)(b) numerous times to turn his vehicle off, turn on the interior light, show his hands and put his hands on the dashboard, but § 87(2)(b) refused to do these things. Sgt. Abramson shined his flashlight in the windows and could see that § 87(2)(b) hands were not on the dashboard. Sgt. Abramson opened the passenger side door to turn on the light and told § 87(2)(b) to calm down. § 87(2)(b) started yelling and cursing and said, "You don't know who I know."

Sgt. Abramson repeatedly asked § 87(2)(b) to exit his vehicle, and PO Panopoulos opened the driver's side door. Although at first he was resistant, § 87(2)(b) eventually complied, turned off the car and exited without the officers using any force to get him from the vehicle.

At the rear of the vehicle, Sgt. Abramson frisked § 87(2)(b) from head to toe. Although Sgt. Abramson had not observed anything that looked like a weapon, he feared that § 87(2)(b) may have had a weapon because he suspected § 87(2)(b)'s involvement in the shooting and because of § 87(2)(b)'s behavior during the car stop, specifically § 87(2)(b) cursing and being loud, combative and uncooperative when asked to show his hands and turn on the interior light. Furthermore, it appeared as though § 87(2)(b) had made some movements toward a low area in the vehicle that Sgt. Abramson could not see.

Sgt. Abramson performed a search of the lungable area near the driver's seat, including under the driver's seat and in the center console. He only shined a light in the back seat and did not recall if he searched the glove compartment. The other officers did not search the vehicle. He performed the search because he suspected there may have been a weapon in the vehicle, which matched the description of the vehicle that had fled the scene of the shooting. Furthermore, § 87(2)(b) behavior raised Sgt. Abramson's level of suspicion and fear of a weapon. Nothing was recovered during the frisk of § 87(2)(b) or the search of his vehicle.

Sgt. Abramson did not recall if he warned § 87(2)(b) that he may have been arrested, but stated it was possible he warned § 87(2)(b) that he would be arrested for disorderly conduct because § 87(2)(b) was cursing, being very loud and uncooperative in a residential area, and because § 87(2)(b) refused to lower his voice despite Sgt. Abramson asking him numerous times. Sgt. Abramson did not issue § 87(2)(b) a summons for disorderly conduct.

Witness Officer: PO KONSTANTIN PANOPOLOUS

- *Born § 87(2)(b) PO Panopoulos is a white male, stands five feet and eleven inches, weighs 180 pounds and has brown hair and brown eyes.*
- *On April 24, 2010, PO Panopoulos worked from 6:00 p.m. to 2:00 a.m. on April 25, 2010. He was assigned to the anti-crime unit and was working with Sgt. Abramson and PO Burrafato. He was in plainclothes and assigned to a motor vehicle.*

Memo Book

PO Panopoulos made no memo book entries related to this incident (encl. 11A-C).

CCRB Testimony

On February 10, 2011, PO Panopoulos was interviewed at the CCRB (encl. 12A-B). [REDACTED]

§ 87(2)(g)

On April 24, 2010, at approximately 1:00 a.m., PO Panopoulos was driving near West 117th Street and St. Nicholas Avenue in Manhattan when Sgt. Abramson saw § 87(2)(b)'s vehicle and told PO Panopoulos to pull it over because it matched the description of a vehicle that had been involved in a shooting. All the officers approached § 87(2)(b)'s vehicle. As PO Panopoulos approached the driver's side, § 87(2)(b) started yelling and cursing, saying, "What the fuck you stopping me for? I didn't fucking do nothing." Due to his belligerent demeanor, PO Panopoulos asked to see § 87(2)(b)'s hands. § 87(2)(b) said, "I ain't showing you nothing," and refused to show his hands. PO Panopoulos asked to see § 87(2)(b)'s hands at least three or four times. Sgt. Abramson, who was on the passenger's side, opened the front passenger's side door so that he could see § 87(2)(b)'s hands. § 87(2)(b) said, "What the fuck you opening my car door for?" and became increasingly belligerent. Sgt. Abramson walked to the driver's side. He and PO Panopoulos asked § 87(2)(b) to exit the vehicle, which § 87(2)(b) then did.

PO Panopoulos believed § 87(2)(b) may have possessed a weapon based on his demeanor, the fact that his vehicle matched the description of the suspect's vehicle, and the fact that he refused to show his hands. Sgt. Abramson frisked § 87(2)(b)'s waistband area, but no other officers frisked him. § 87(2)(b) responded by saying, "What the fuck you doing? Get the fuck off me." PO Panopoulos could not see exactly where Sgt. Abramson searched in § 87(2)(b)'s vehicle, but believed he searched the lungeable area near the driver's seat and did not see Sgt. Abramson search the back seat or glove compartment. PO Panopoulos did not hear any officer threaten to arrest § 87(2)(b). Before the officers left, § 87(2)(b) asked for Sgt. Abramson's badge number, which he provided.

Witness Officer: PO ANDREW BURRAFATO

- Born § 87(2)(b), PO Burrafato is a white male, stands five feet and nine inches, weighs 150 pounds and has brown hair and brown eyes.
- PO Burrafato worked from 5:30 p.m. on April 23, to 2:05 a.m. on April 24, 2010, wearing plain clothes and assigned to anticrime with PO Panopoulos and Sgt. Abramson.

Memo Book

PO Burrafato made no memo book entries related to this incident (encl. 13A-B).

CCRB Testimony

On December 8, 2010, PO Burrafato was interviewed at the CCRB (encl. 14A-B). [REDACTED]

§ 87(2)(g)

On April 24, 2010, at approximately 1:00 a.m., the officers stopped § 87(2)(b) on 117th Street in Manhattan. PO Burrafato did not remember why the officers pulled the car over, but remembered it was related to a radio run. PO Burrafato recalled § 87(2)(b) being noncompliant, loud, argumentative and screaming at the officers. PO Burrafato recalled that one of the officers frisked § 87(2)(b) but did not remember any officers searching his vehicle or threatening to arrest him. PO Burrafato did not directly interact with § 87(2)(b).

NYPD Documents

SPRINT

SPRINT number § 87(2)(b) (encl. 15) indicates that on April 23, 2011, at 11:50 p.m., there was a report of a male shot near 132nd Street and Park Avenue. At 11:54 p.m., a report went over the radio to look for a champagne-colored, late model SUV, possibly a Ford Explorer, with tinted windows and damage to the rear right bumper, last seen going southbound on Park Avenue.

Status of Civil Proceedings

- As of December 9, 2010, § 87(2)(b) had not filed a Notice of Claim with the City of New York with regard to the incident (encl. 16A-B).

Civilian Criminal History

- § 87(2)(b) [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]

Civilian CCRB History

- § 87(2)(b) [REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]

Subject Officer(s) CCRB History

- Sgt. Abramson has been a member of the service for 16 years and there are no substantiated CCRB allegations against him (encl. 2A).

Conclusion

Identification of Subject Officer

Sgt. Abramson and the other officers confirmed that Sgt. Abramson made the decision to stop § 87(2)(b) frisked § 87(2)(b) and performed the search of § 87(2)(b)'s car.

§ 87(2)(g) [REDACTED] § 87(2)(b) said the officer that threatened to arrest him referred to himself as "Serg'," short for sergeant. Furthermore, the actions this officer performed were consistent with those Sgt. Abramson acknowledged doing, and § 87(2)(b)'s description of this officer matches the pedigree information of Sgt. Abramson. § 87(2)(g) [REDACTED]

Investigative Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(b) complained that Sgt. Abramson grabbed his groin while performing a frisk. § 87(2)(g), § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) CCRB case number § 87(2)(b) was spun-off and referred to IAB in regards to this allegation.

Allegation A - Abuse of Authority: Sgt. Robert Abramson supervised the stop of the car in which § 87(2)(b) was an occupant.

It is undisputed that Sgt. Abramson supervised the stop of § 87(2)(b)'s vehicle. Sgt. Abramson said he did this because it matched the description of a vehicle that was suspected of being involved in a nearby shooting earlier that night. Specifically, Sgt. Abramson said the type, color, license plate and body damage of § 87(2)(b)'s vehicle closely matched the description that came over the radio. This was consistent with the testimonies of PO Panopolous and PO Burrafato, as well as Sgt. Abramson's memo book and the Stop, Question and Frisk report related to this incident. Furthermore, § 87(2)(b) testified that the officers provided him with an identical explanation for the car stop at the time of the incident.

SPRINT number § 87(2)(b) which was referenced in Sgt. Abramson's memo book, confirmed that on April 23, 2011, at 11:50 p.m., a shooting occurred 15 blocks north of the car stop, and that officers were advised to look for a champagne-colored, late model SUV with right rear body damage that was last seen going southbound from 132nd Street.

The Stop, Question and Frisk report also noted that the time of the stop, the area of occurrence and proximity of the stop to the scene of the shooting as additional reasons that increased Sgt. Abramson's suspicion.

According to Patrol Guide Procedure 212-11 (encl. 1A), an officer may stop an individual when he "reasonably suspects a person has committed, is committing or is about to commit a felony or a Penal Law misdemeanor."

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation B - Abuse of Authority: Sgt. Robert Abramson frisked § 87(2)(b)

§ 87(2)(b)

It is undisputed that Sgt. Abramson frisked § 87(2)(b). According to Patrol Guide Procedure 212-11 (encl. 1A), an officer may frisk an individual when he reasonably suspects he or others are in danger of physical injury.

As discussed above, Sgt. Abramson believed that § 87(2)(b) was involved in a nearby shooting that occurred the evening before. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

Allegation C - Abuse of Authority: Sgt. Robert Abramson searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(b) alleged that his vehicle was searched; however, he admitted that from where he stood during the car stop, he could not see actually see any officers search his vehicle. Sgt. Abramson admitted that he performed a limited search of the lungable area near the driver's seat.

Sgt. Abramson said he searched the vehicle because he believed there was a weapon contained in the vehicle. As discussed above, both the description that came over the radio and § 87(2)(b)'s subsequent behavior contributed to Sgt. Abramson's suspicion.

One of the exceptions to the probable cause requirement for performing a vehicle search is explained in *People v. Mundo* (encl. 1B-C): the general rule requires "an articulable or actual threat and a substantial likelihood that a weapon is in the vehicle, as opposed to some mere hypothetical or theoretical threat.... Where there is a substantial likelihood that a weapon is present in a vehicle, thereby giving rise to an 'actual and specific' danger to officer safety, a limited police search is justified."

§ 87(2)(g)

§ 87(2)(g)

Allegation D - Abuse of Authority: Sgt. Robert Abramson threatened to arrest

§ 87(2)(b)

§ 87(2)(b) said that while he arguing about being stopped, Sgt. Abramson asked him, "Do you want me to take you in?" Sgt. Abramson had no specific recollection of threatening to arrest § 87(2)(b) but stated that he may have warned § 87(2)(b) could be arrested for disorderly conduct. Sgt. Abramson said this would have been justified by the fact that § 87(2)(b) was cursing and being very loud in a residential area, despite the officers' repeated requests for him to cooperate and to lower his voice. The other officers also recalled that § 87(2)(b) was yelling and cursing throughout the incident. § 87(2)(b) admitted to acting as Sgt. Abramson described, and admitted that when Sgt. Abramson told him to lower his voice, he responded by saying, "I speak loud... I speak so people can hear me. I don't know what your problem is, this is the way I speak."

New York State Penal Code 240.20 (encl. 1D-E) states an individual is guilty of disorderly conduct when, while recklessly creating a risk of public inconvenience, annoyance or alarm, he makes unreasonable noise or uses abusive or obscene language in a public place.

§ 87(2)(g)

Team: 5

Investigator:

Signature

Print

Date

Supervisor:

Title/Signature

Print

Date

Reviewer:

Title/Signature

Print

Date

Reviewer:

Title/Signature

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Date